

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Applications for the Assignment of Licenses from  
Denali PCS, L.L.C. to Alaska DigiTel, L.L.C. and  
Transfer of Control of Interest in Alaska  
DigiTel, L.L.C. to General Communication, Inc.

WC Docket No. 06-114

**ACS WIRELESS INC.'S REQUEST FOR  
CONFIDENTIAL TREATMENT OF ITS SUBSCRIBER DATA**

Pursuant to 47 C.F.R. § 0.459 and the Protective Orders issued by the Commission in this proceeding, ACS Wireless, Inc. ("ACSW") asks that the Commission afford confidential treatment to ACSW disaggregated subscriber information that it included in its Supplemental Comments filed today, September 6, 2006. ACSW's subscriber information meets the requirements for confidential treatment contained in the Commission's rules.<sup>1</sup> Consequently, the Commission should afford the same protections to ACSW confidential subscriber data as the other confidential subscriber information examined in the case, subject to the terms of the Protective Orders.

In its Supplemental Comments, ACSW presented data showing the number of its subscribers in Anchorage, Fairbanks and Juneau markets in Alaska. ACSW included this information so that it could perform a more complete and comprehensive HHI analysis of the Transaction.<sup>2</sup> Generally, the Commission uses an HHI analysis to

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<sup>1</sup> See 47 C.F.R. § 0.459.

<sup>2</sup> The Applications for Assignment of Licenses held by Denali PCS, L.L.C. to Alaska DigiTel, L.L.C., File No. 0002453582 (filed Jan. 27, 2006); Application to Transfer of Control of Licenses held by Alaska DigiTel, L.L.C., File No. 0002453706 (filed Jan. 27, 2006) are part of a complex transaction governed by the Reorganization Agreement Among General Communication, Inc., Alaska DigiTel, L.L.C., the Members of Alaska DigiTel, L.L.C., AKD Holdings L.L.C., and the Members of Denali PCS, L.L.C., dated as of June 16, 2006 ("The Transaction").

examine the competitive impacts of a proposed merger or transfer of control. Through the analysis, the Commission can identify carriers' current market shares, and compare how the merger/control transfer will impact that market structure.

ACSW's subscriber information is exactly the type of competitively-sensitive information that the Commission has protected in this case. The Commission affords high levels of protection to carriers' subscriber count information contained in Numbering Resource Utilization and Forecast ("NRUF") Reports and has already adopted a Protective Order in this proceeding designed to protect NRUF data.<sup>3</sup> ACSW's subscriber information is disaggregated by market in a form similar to the NRUF data.

The Commission has held in a number of cases that disaggregated subscriber data is confidential and should be protected under the Commission's rules.<sup>4</sup> In the *EchoStar/Hughes Second Protective Order*, the Commission granted enhanced confidential protection of "documents and data detailing subscriber count and subscriber churn-rate data broken down by ZIP code and Designated Market Area."<sup>5</sup> Similarly, in the *Adelphia/Time Warner/Comcast Second Protective Order*, the Commission permitted

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<sup>3</sup> See Protective Order, DA 06-1248, released June 9, 2006.

<sup>4</sup> See, e.g., *In re Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corp., Assignors, to Time Warner Cable, Inc., Assignees, Adelphia Communications Corp., Assignors and Transferors, to Comcast Corporation, Assignees and Transferees, Comcast Corporation, Transferor, to Time Warner, Inc., Transferee, Time Warner, Inc., Transferor, to Comcast Corporation, Transferee*, Order, DA 05-3226 (Dec. 21, 2005) (*Adelphia/Time Warner/Comcast Second Protective Order*); *Applications for the Transfer of Control of Licenses and Authorizations from Nextel Communications, Inc. and its Subsidiaries to Sprint Corporation*, Order, 20 FCC Rcd. 9280 (2005) (*Sprint/Nextel Second Protective Order*); *SBC Communications, Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Order, 20 FCC Rcd. 8876 (*SBC/AT&T Second Protective Order*); *In re Verizon Communications, Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, Order, 20 FCC Rcd. 10420 (2005) (*Verizon/MCI Second Protective Order*); *News Corporation, General Motors Corporation, and Hughes Electronics Corporation*, Order, 18 FCC Rcd. 15198 (2003) (*News Corp./Hughes Second Protective Order*); *EchoStar Communications Corp., General Motors Corp. and Hughes Electronics Corp.*, Order, 17 FCC Rcd 7415 (2002) (*EchoStar/Hughes Second Protective Order*).

<sup>5</sup> See *EchoStar/Hughes Second Protective Order* ¶ 3.

documents that provided detailed subscriber information and detailed information regarding services sold to subscribers to be filed confidentially.<sup>6</sup>

Further, the ACSW subscriber information is highly privileged and very commercially-sensitive. Disclosure of this information could result in substantial competitive harm to ACSW. If competitors could view this information, they would see how many subscribers ACSW served in certain of the largest Alaska population centers. The information could influence their marketing strategies, and impact where they would focus resources, infrastructure investments and service enhancements, giving them an unfair competitive advantage. The information concerns wireless services which are subject to substantial competition in these areas.

ACSW has carefully protected this disaggregated information from commercial disclosure. The information is not published in this form in any SEC reports or FCC reports. It is not in the public record.

ACSW has provided this information in an effort to develop a more detailed and comprehensive HHI analysis for the Commission's record. In return, the information should be given the same level of protection that the Commission has permitted for other similar and comparable subscriber information. ACSW requests that, if the Commission does not grant this request, that it allow ACSW to remove the data from its Supplemental Comments.

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<sup>6</sup> See *Adelphia/Time Warner/Comcast Second Protective Order* ¶ 2. With regard to detailed subscriber information, the applicants asserted that competitors could use this information to target their marketing efforts in Adelphia's service areas, thereby gaining an unfair competitive advantage.

Respectfully submitted this 6<sup>th</sup> day of September 6, 2006.

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